

S/N: 10/015,351

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Pinder et al.	Examiner:	Nobahar, Abdulhakim
Serial No.:	10/015,351	Group Art Unit:	2432
Filed:	December 11, 2001	Docket No.:	A-7274/60374.0151US01
Title:	Encrypting Received Content		

REPLY BRIEF UNDER 37 C.F.R. § 41.41 IN RESPONSE TO EXAMINER'S ANSWER

Mail Stop: Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The Appellants hereby submit a brief in reply to the Examiner's Answer dated March 19, 2009, in the patent application identified above. A Notice of Appeal was filed on November 5, 2008, and an Appeal Brief was filed on January 5, 2009.

REAL PARTY OF INTEREST

The real party of interest is Scientific-Atlanta, Inc. of Lawrenceville, Georgia. An Assignment is of record in the application.

RELATED APPEALS AND INTERFERENCES

None.

STATUS OF CLAIMS

Claim	Status
55-76, 83-91, and 105-124	Rejected
1-54, 77-82, and 92-104	Cancelled

Rejected Claims 55-76, 83-91, and 105-124 are being appealed.

A clean copy of Claims 55-76, 83-91, and 105-124 involved in this appeal is attached as an Appendix.

STATUS OF AMENDMENTS

All Amendments to date have been entered.

SUMMARY OF CLAIMED SUBJECT MATTER

See Appeal Brief filed January 5, 2008, pages 3-7.

REPLY

The arguments presented in the Appeal Brief are hereby incorporated by reference in their entirety.

Claims 55-76, 83-91, and 105-124 are rejected under 35 U.S.C. 103(a) as unpatentable over U.S. Patent No. 6,141,530 ("*Rabowsky*") in view of U.S. Patent Pub. No. 2002/0114453 ("*Bartholet*").

In the Answer, the Examiner states that there is sufficient support and motivation to combine the teachings of *Rabowsky* and *Bartholet* to teach "receiving a first ciphertext packet having multiple layers of encryption thereon at the receiver". (See Examiner's Answer, pages 8-10.)

In contrast, and as the Examiner has admitted, "*Rabowsky* does not expressly teach a scheme to encrypt data more than one time." (See Advisory Action, page 2). However, the Examiner's Answer now takes the position that *Rabowsky* teaches Triple DES encryption technology for the encryption of cinema files. (See Examiner's Answer, page 9). Even assuming, *arguendo* that *Rabowsky* teaches Triple DES encryption technology for the encryption of cinema files, the Examiner impermissibly speculates that "if *Rabowsky* applies the Triple DES encryption...at the headend" without providing proper support that *Rabowsky* teaches such a use at the headend. (See Examiner's Answer, page 9)

Indeed, *Rabowsky* does not teach such multi-layered encryption at a headend. *Bartholet* does not remedy the deficiencies of *Rabowsky*. *Bartholet* merely discusses the use of multi layer encryption at a storage device. (See para. [0012], [0022]).

Furthermore, *Bartholet* teaches away from *Rabowsky*. *Rabowsky* is focused on “secure electronic delivery of motion pictures in digital format”. (col. 1, lines 9 - 10). *Rabowsky* appears to disclose a head-end receiver system and a conditional access module residing in a theater. (col. 1, line 61 – col. 2, line 4). The headend of *Rabowsky* appears capable of providing or distributing entitlement information (keys) to a CAM located in the theater. (col. 9, line 65 – col. 10, line 10).

In contrast *Bartholet* discusses that such key distribution for data transfer results in unintentional disclosure of the keys to third parties. (para. [0008]). *Bartholet* further states that “no conventional key management infrastructure is required...” (para. [0115]). Thus, *Bartholet* teaches a system which is wholly opposite to *Rabowsky* and even states why a system like *Rabowsky* is unfavorable and should not be used in the context of *Batholet*.

Combining *Rabowsky* and *Bartholet* would not have led to the claimed subject matter because *Rabowsky* teaches that keys may be distributed by a headend, while *Bartholet* teaches that such distribution of keys from a headend should be avoided. In contrast, independent Claims 55, 83, and 105 each receive a first ciphertext packet having multiple layers of encryption thereon at the receiver. As a result, combining these references cannot be proper without the hindsight of the present application, and independent Claims 55, 83, and 105 are each patentable over the cited references.

Dependent Claims 56-76, 84-91, and 105-124 are also patentable at least for the reasons described above regarding independent Claims 55, 83, and 105, and by virtue of their respective dependencies upon independent Claims 55, 83, and 105.

CONCLUSION

In closing, Appellants respectfully submit that the rejected claims define patentable subject matter over the applied art and request the Board to reverse the rejections of those claims.

While no fees are believed due, the Commissioner is authorized to charge any additional required fees to our deposit account 13-2725.

Respectfully submitted,
MERCHANT & GOULD P.C.

P.O. Box 2903
Minneapolis, MN 55402-0903
404.954.5100

Date: May 19, 2009

/dr/_____
David Rodack
Reg. No. 47,034

MIK/ak